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Attorneys for Defendant
ACE AMERICAN INSURANCE COMPANY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

BAILLIE LUMBER CO., L.P., a
Delaware limited partnership,

Plaintiff,

vs.

ACE AMERICAN INSURANCE
COMPANY, a Pennsylvania
corporation,

Defendants.

LACV 11-6038 PLA
CASE NO.

NOTICE OF REMOVAL
UNDER 28 U.S.C. §1441(b)
(DIVERSITY)

Complaint Filed: June 22, 2011
Trial Date: None Set

BY FAX

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that defendant ACE AMERICAN INSURANCE
COMPANY hereby removes to this Court the state court action described below.

JURISDICTION AND VENUE

1. Removal jurisdiction of this action is based upon diversity of
citizenship (28 U.S.C. §1332), as the parties are citizens of different states and the
amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

2. Removal venue is proper in the Central District of California, Western
Division, pursuant to 28 U.S.C. §1441(a), because the action was brought in a state
court of which the district courts of the United States have original jurisdiction.

NOTICE OF REMOVAL UNDER 28 U.S.C. §1441(b) (DIVERSITY)
CASE NO.

FORAN GLENNON PALANDECH PONZI & RUDLOFF PC

ATTORNEYS AT LAW
2000 POWELL STREET, SUITE 900
EMERYVILLE, CALIFORNIA 94608
(510) 740-1500REMOVAL

3. On June 22, 2011, an action was commenced in the Superior Court of the State of California in and for the County of Los Angeles (Central Division), entitled *Baillie Lumber Co., A Delaware limited partnership, vs. ACE American Insurance Company, Inc., a Pennsylvania corporation*, Los Angeles County Superior Court, Civil Action No. BC464109 ("Complaint"). The Summons was served by personal delivery on the registered agent for service of process for ACE on June 24, 2011. Copies of the documents filed in the state court action are attached as **Exhibit A**.

4. This action is a civil action in which this Court has original jurisdiction under 28 U.S.C. §1332. It is subject to removal by ACE to this Court, pursuant to the provisions of 28 U.S.C. §1441(a) and 28 U.S.C. §1441(b), because it is a civil action between citizens of different states and the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs.

5. Plaintiff Baillie Lumber was, at the time of filing of this action, and still is, a limited partnership organized under the laws of the State of Delaware, with its principal place of business in the State of New York. (Complaint, ¶1.) ACE was, at the time of the filing of this action, and still is, a corporation duly organized under the laws of the State of Pennsylvania, with its principal place of business in the State of Pennsylvania. Therefore, the parties to this action are completely diverse.

6. The Complaint alleges that, based on the subject insurance policy issued by ACE, ACE is liable for (1) breach of contract, (2) insurance bad faith, (3) breach of the implied covenant of good faith and fair dealing, and (4) declaratory relief. The lawsuit arises from a first-party property insurance claim for damage to Plaintiff's personal property at a location in Tijuana, Mexico. Plaintiff seeks damages of at least \$190,000. (Complaint ¶17, Complaint Prayer, ¶¶2, 3.) Thus, the \$75,000 jurisdictional minimum is met.

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(510) 740-1500

DEMAND FOR JURY TRIAL

6. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, ACE hereby demands a trial by jury.

DATED: July 21, 2011

**FORAN GLENNON PALANDECH
PONZI & RUDLOFF PC**

By: Marjie D. Barrows
Marjie D. Barrows

Attorneys for Defendant ACE AMERICAN
INSURANCE COMPANY

EXHIBIT A

6-24-11
7:55

SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT: ACE AMERICAN INSURANCE COMPANY, a
(AVISO AL DEMANDADO): Pennsylvania corporation

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
CONFORMED COPY
OR ORIGINAL FILED
Los Angeles Superior Court

JUN 22 2011

John A. Clarke, Executive Officer/Clerk
By AMBER LA FLEUR-CLAYTON, Deputy

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

BAILLIE LUMBER CO., L.P. a Delaware limited partnership

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT OF THE STATE OF CALIFORNIA
111 N. Hill Street

CASE NUMBER:
(Número del Caso):

BC464109

Los Angeles, CA 90012-3014

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Thomas H. Cadden, Bar No. 122299

949-788-0827 949-450-0650

Ignacio J. Lazo, Bar No. 105945

Nathaniel J. Tarvin, Bar No. 251094

CADDEN & FULLER LLP, 114 Pacifica, Suite 450, Irvine, CA 92618

DATE:

(Fecha)

JOHN A. CLARKE, Clerk by
(Secretario)

AMBER LA FLEUR-CLAYTON

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): ACE AMERICAN INSURANCE COMPANY, a Pennsylvania corporation

under: ☒ CCP 416.10 (corporation)

☐ CCP 416.60 (minor)

☐ CCP 416.20 (defunct corporation)

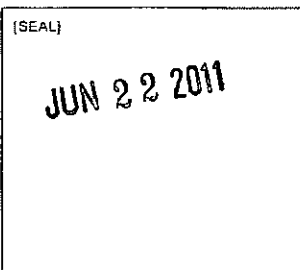
☐ CCP 416.70 (conservatee)

☐ CCP 416.40 (association or partnership)

☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☐ by personal delivery on (date):



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Thomas H. Cadden, Bar No. 122299 Ignacio J. Lazo, Bar No. 105945 Nathaniel J. Tarvin, Bar No. 251094 CADDEN & FULLER LLP 114 Pacifica, Suite 450, Irvine, CA 92618 TELEPHONE NO.: 949-788-0827 FAX NO.: 949-450-0650 ATTORNEY FOR (Name): Plaintiff		<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> RECORDED COPY OF ORIGINAL FILED Los Angeles Superior Court </div> <div style="font-size: 1.2em; margin-bottom: 10px;">JUN 22 2011</div> <div> John A. Clarke, Executive Officer/Clerk By <u>A. Lafleur-Clayton</u> Deputy </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012-3014 BRANCH NAME: Central District		
CASE NAME: Baillie v. ACE American Ins.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: BC464109 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input checked="" type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 4: Breach of contract, Bad Faith, Breach of Implied Covenant of Good Faith;
5. This case ☐ is ☒ is not a class action suit. Declaratory Relief
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
- Date: June 22, 2011

Nathaniel J. Tarvin, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
- Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)
- Employment
 - Wrongful Termination (36)
 - Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
 - Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
 - Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (*non-domestic relations*)
 - Sister State Judgment
 - Administrative Agency Award (*not unpaid taxes*)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
- Declaratory Relief Only
- Injunctive Relief Only (*non-harassment*)
- Mechanics Lien
- Other Commercial Complaint Case (*non-tort/non-complex*)
- Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief from Late Claim
- Other Civil Petition

SHORT TITLE: Baillie v. ACE American Ins.

CASE NUMBER

BC464109

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL HOURS/ ☒ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked “Limited Case”, skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

SHORT TITLE: Baillie v. ACE American Ins.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons See Step 3 Above
Non-Personal Injury/Property Damage/ Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
	Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Contract	Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
	Insurance Coverage (18)	<input checked="" type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
	Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1., 2., 3., 5.
		<input type="checkbox"/> A6031 Tortious Interference	1., 2., 3., 5.
		<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 8.
Real Property	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2., 6.
		<input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6.
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: Baillie v. ACE American Ins.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
		<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8.
	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2., 3., 9.
		<input type="checkbox"/> A6123 Workplace Harassment	2., 3., 9.
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2., 3., 9.
		<input type="checkbox"/> A6190 Election Contest	2.
		<input type="checkbox"/> A6110 Petition for Change of Name	2., 7.
		<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2., 3., 4., 8.
		<input type="checkbox"/> A6100 Other Civil Petition	2., 9.

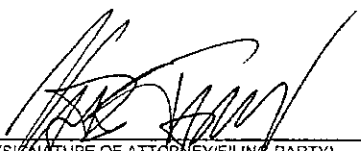
SHORT TITLE: Baillie v. ACE American Ins.	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., **Step 3** on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 601 S. Figueroa Street
CITY: Los Angeles	STATE: CA	ZIP CODE: 90017

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: June 22, 2011


 (SIGNATURE OF ATTORNEY/FILING PARTY)
 Nathaniel J. Tarvin, Esq.

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
NOTICE OF CASE ASSIGNMENT - UNLIMITED CIVIL CASE
Case Number _____

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

BC464109

Your case is assigned for all purposes to the judicial officer indicated below (Local Rule 7.30). There is additional information on the reverse side of this form.

ASSIGNED JUDGE	DEPT	ROOM	ASSIGNED JUDGE	DEPT	ROOM
Hon. Carolyn B. Kuhl	1	534	Hon. Holly E. Kendig	42	416
Hon. J. Stephen Czuleger	3	224	Hon. Mel Red Recana	45	529
Hon. Luis A. Lavin	13	630	Hon. Debre Katz Weintraub	47	507
Hon. Terry A. Green	14	300	Hon. Elizabeth Allen White	48	506
Hon. Richard Fruin	15	307	Hon. Deirdre Hill	49	509
Hon. Rita Miller	16	306	Hon. John Shepard Wiley Jr.	50	508
Hon. Richard E. Rico	17	309	Hon. Abraham Khan	51	511
Hon. Rex Heeseman	19	311	Hon. Susan Bryant-Deason	52	510
Hon. Kevin C. Brazile	20	310	Hon. John P. Shook	53	513
Hon. Zaven V. Sinanian	23	315	Hon. Ernest M. Hiroshige	54	512
Hon. Robert L. Hess	24	314	Hon. Malcolm H. Mackey	55	515
Hon. Mary Ann Murphy	25	317	Hon. Michael Johnson	56	514
Hon. James R. Dunn	26	316	Hon. Ralph W. Dau	57	517
Hon. Yvette M. Palazuelos	28	318	Hon. Rolf M. Treu	58	516
Hon. <i>Barbara Scheper</i>	30	400	Hon. David L. Minning	61	632
Hon. Alan S. Rosenfield	31	407	Hon. Michael L. Stern	62	600
Hon. Mary H. Strobel	32	406	Hon. Kenneth R. Freeman	64	601
Hon. Charles F. Palmer	33	409	Hon. Mark Mooney	68	617
Hon. Amy D. Hogue	34	408	Hon. Ramona See	69	621
Hon. Daniel Buckley	35	411	Hon. Soussan G. Bruguera	71	729
Hon. Gregory Alarcon	36	410	Hon. Ruth Ann Kwan	72	731
Hon. Joanne O'Donnell	37	413	Hon. Teresa Sanchez-Gordon	74	735
Hon. Maureen Duffy-Lewis	38	412	Hon. William F. Fahey	78	730
Hon. Michael C. Solner	39	415	Hon. Emilie H. Elias*	324	CCW
Hon. Michelle R. Rosenblatt	40	414	other		
Hon. Ronald M. Sohigian	41	417			

***Class Actions**

All class actions are initially assigned to Judge Emilie H. Elias in Department 324 of the Central Civil West Courthouse (600 S. Commonwealth Ave., Los Angeles 90005). This assignment is for the purpose of assessing whether or not the case is complex within the meaning of California Rules of Court, rule 3.400. Depending on the Outcome of that assessment, the class action case may be reassigned to one of the judges of the Complex Litigation Program or reassigned randomly to a court in the Central District.

Given to the Plaintiff/Cross-Complainant/Attorney of Record on _____ JOHN A. CLARKE, Executive Officer/Clerk
By _____, Deputy Clerk

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JUN 22 2011

John A. Clarke, Executive Officer/Clerk
By A.E. LaFleur-Clayton, Deputy

CADDEN & FULLER LLP
Thomas H. Cadden, Bar No. 122299
Ignacio J. Lazo, Bar No. 105945
Nathaniel J. Tarvin, Bar No. 251094
Telephone: (949) 788-0827
Facsimile: (949) 450-0650
Emails: tcadden@caddenfuller.com
ilazo@caddenfuller.com
ntarvin@caddenfuller.com

Attorneys for Plaintiff,
Baillie Lumber Co., L.P.,

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DIVISION

BAILLIE LUMBER CO., L.P., a
Delaware limited partnership,

Plaintiff,

vs.

ACE AMERICAN INSURANCE
COMPANY, a Pennsylvania corporation,

Defendant.

Case No.: **BC464109**

**COMPLAINT FOR DAMAGES
FOR:**

(1) BREACH OF CONTRACT;

(2) INSURANCE BAD FAITH;

**(3) BREACH OF THE IMPLIED
COVENANT OF GOOD FAITH
AND FAIR DEALING; AND**

(4) DECLARATORY RELIEF

DEMAND FOR JURY TRIAL

Plaintiff Baillie Lumber Co., L.P. (hereinafter "Baillie" or "Plaintiff") hereby
alleges as follows:

GENERAL ALLEGATIONS

1. Plaintiff is, and was at all time herein relevant, a limited partnership
existing pursuant to the laws of the State of Delaware, with its principal place of
business in the State of New York.

1 2. Defendant ACE American Insurance Company (hereinafter "ACE" or
2 "Defendant") is, and was at all times herein relevant, a corporation existing under the
3 laws of the State of Pennsylvania, with its principal place of business in the State of
4 Pennsylvania. At all times herein relevant, ACE was authorized to do business in the
5 State of California, maintained a regional office in the City of Los Angeles, and
6 retained an agent for service of process in the City of Los Angeles. ACE is an
7 insurance corporation which issues, delivers, and/or administers policies of insurance
8 on losses occurring internationally and in various states, including the State of
9 California, and is otherwise transacting regular and ongoing business throughout the
10 state of California.

11 3. A substantial part of the events or omissions giving rise to Plaintiff's
12 claims occurred within the County of Los Angeles. More specifically, the loss forming
13 the basis of Plaintiff's claim under its policy of insurance with Defendant arose from
14 the a series of contracts between Plaintiff and Douglas Furniture of California, LLC
15 ("Douglas"), a limited liability company with its principal place of business in the
16 County of Los Angeles which formerly maintained a wholly-owned production facility
17 in Tijuana, Mexico.

18 4. Plaintiff operates a business which, among other things, sells lumber and
19 other materials to businesses throughout the United States and internationally,
20 including businesses in the State of California and Tijuana, Mexico. As a routine
21 business practice, Plaintiff secures written insurance policies for loss of business
22 personal property. Defendant is one of Plaintiff's primary providers of such policies.

23 5. Defendant issued one or more written insurance policies to Plaintiff with
24 respect to Plaintiff's business whereby Defendant would insure Plaintiff against certain
25 losses under the terms of an "International Advantage" Commercial Insurance Policy.
26 Plaintiff is informed and believes and thereupon alleges that said insurance policy
27 bears the policy number PHFD36831893 (the "Policy"), and is further informed and
28

1 believes that Exhibit "A," attached hereto, which is hereby incorporated by this
2 reference, is a true and correct copy of the relevant portions of the Policy.

3 6. Among other duties, the Policy imposes on Plaintiff the duty to pay
4 premiums to Defendant in exchange for insurance against loss of Plaintiff's business
5 personal property, including lumber, located in specified locations outside of the
6 United States ("Covered Locations").

7 7. Plaintiff is and was a named insured under the Policy at all relevant times,
8 and the Policy was in full force and effect at all relevant times herein.

9 8. At all relevant times, outside storage located at Calle Exportadores, No.
10 118, Seccion Dorada CD. Industrial, Tijuana, Mexico, C.P. 22500 (the "Tijuana
11 Location") was a Covered Location under the Policy.

12 9. As discussed more fully below, Plaintiff and Defendant are involved in
13 a dispute regarding a claim submitted with regard to loss of Plaintiff's property stored
14 at the Tijuana Location pursuant to an arrangement between Plaintiff and Douglas.
15 Plaintiff made a timely claim on losses covered under the Policy (the "Claim"). If the
16 Claim was technically untimely, Defendant was not prejudiced by its untimeliness.
17 Defendant has nonetheless denied Plaintiff's Claim.

18 10. Plaintiff incurred clear losses covered by the policy and submitted an
19 honest and accurate claim to Defendant. Defendant denied Plaintiff's claim even
20 though honoring the claim would not prejudice Defendant.

21
22 **FIRST CAUSE OF ACTION AGAINST ACE**

23 **(Breach of Written Contract)**

24 11. Plaintiff hereby re-alleges and incorporates the preceding paragraphs as
25 though fully set forth herein.

26 12. The Policy constitutes a written contract between Plaintiff and Defendant,
27 the substantive terms of which require Defendant to reimburse losses Plaintiff incurred
28 by reason of the loss of Plaintiff's personal property at Covered Locations.

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13. Plaintiff performed all of its obligations under the Policy.

14. Plaintiff incurred clear losses covered by the Policy and, within the past two years, submitted an honest and accurate Claim to Defendant in a timely fashion.

15. Defendant denied Plaintiff's Claim in violation of the terms of the Policy.

16. By engaging in the acts and omissions alleged above, Defendant has breached its contract with Plaintiff.

17. As a direct and proximate result of Defendant's breach, Plaintiff has sustained and is continuing to sustain damages including, without limitation, the loss of policy benefits in an amount subject to proof, but in no event less than \$190,000.00, plus interest at the legal rate from the date Defendant denied Plaintiff's claim.

18. A finding that the conduct of Defendant, as alleged above constitutes a breach of contract will result in the enforcement of an important right affecting the public interest by making it clear to Defendant (and other insurance companies) that insurers cannot refuse to honor their obligations to their insureds simply because most insureds are unwilling or unable to litigate their claims. Moreover, such a finding will result in a significant benefit to the general public or a large class of persons, the necessity and financial burden on Plaintiff to vindicate such rights renders the award of attorneys' fees to Plaintiff appropriate, and the interests of justice dictate that Plaintiffs' attorneys' fees should be paid by Defendant, and not out of Plaintiffs' recovery pursuant to California Code of Civil Procedure Section 1021.5.

SECOND CAUSE OF ACTION AGAINST ACE
(First Party Insurer Bad Faith Denial of Claims)

19. Plaintiff hereby re-alleges and incorporates the preceding paragraphs as though fully set forth herein.

1 20. Defendant, as an insurer, owed a duty to Plaintiff at all times relevant to
2 diligently investigate the facts of a claim, fairly evaluate a claim, and promptly resolve
3 a claim.

4 21. Plaintiff incurred clear losses covered by the policy and submitted an
5 honest and accurate Claim to Defendant. Defendant denied Plaintiff's Claim without
6 adhering to law with respect to an insurer's burden to establish that policy exclusions
7 apply to the facts of a claim

8 22. Defendant did not diligently investigate Plaintiff's Claim before denying
9 it. Neither did Defendant fairly evaluate Plaintiff's Claim. Moreover, the Policy
10 exclusions upon which Defendant relies are not supported by fact or by law.

11 23. The Policy includes coverage for loss of business personal property with
12 a policy limit of \$200,000.00 (the "Main Coverage"). The Policy also includes a
13 secondary coverage for losses due to loss of business personal property sold under a
14 conditional sales contract with a policy limit of \$25,000.00 (the "Deferred Payments
15 Coverage").

16 24. Defendant denied Plaintiff's Claim under the Main Coverage by
17 wrongfully using the Deferred Payments Coverage as an exemption even though
18 Defendant knew that Plaintiff's Claim fell within the Main Coverage. In so doing,
19 Defendant wrongfully attempted to minimize its obligation to pay Plaintiff for the very
20 risks against which Defendant agreed to insure.

21 25. In so denying Plaintiff's Claim, Defendant acted with fraud, malice, and
22 oppression in that Defendant knowingly and falsely stated that Plaintiff had failed to
23 fulfill its duties under the Policy and that the claim was excluded under the terms of the
24 Policy with knowledge that Defendant's position was not supported by fact or law.

25 26. As a direct and proximate result of Defendant's acts and omissions,
26 Plaintiff has sustained and is continuing to sustain damages including, without
27 limitation, the loss of policy benefits in an amount subject to proof, but in no event less
28 than \$190,000.00 plus interest at the legal rate from the date Defendant denied

1 Plaintiff's claim. Moreover, in light of the, Plaintiff is entitled to punitive damages in
2 an amount to be proven at trial.

3
4 **THIRD CAUSE OF ACTION AGAINST ACE**

5 **(Breach of the Implied Covenant of Good Faith and Fair Dealing)**

6 27. Plaintiff hereby re-alleges and incorporates the preceding paragraphs as
7 though fully set forth herein.

8 28. There is in every contract, an implied covenant by each party not to take
9 any step, or engage in any conduct that would deprive the other party of the benefit of
10 the contract.

11 29. By among other things, engaging in the acts and omissions alleged above,
12 Defendant breached the implied covenant of good faith and fair dealing.

13 30. As a direct and proximate result of Defendant's breach of the implied
14 covenant of good faith and fair dealing, Plaintiff has sustained and is continuing to
15 sustain damages including, without limitation, the loss of policy benefits in an amount
16 subject to proof, but in no event less than \$190,000.00 plus interest at the legal rate
17 from the date Defendant denied Plaintiff's claim.

18
19 **FOURTH CAUSE OF ACTION AGAINST ACE**

20 **(Declaratory Relief)**

21 31. Plaintiff hereby re-alleges and incorporates the preceding paragraphs as
22 though fully set forth herein.

23 32. A controversy has arisen between Plaintiff and Defendant with regard to
24 their respective rights and obligations. Among other things, Plaintiff contends, and
25 Defendant denies, that:

- 26 a. The Policy obligates Defendant to pay the Claim in full;
27 b. The Claim is not excluded under the Policy;
28

1 c. The Claim falls within the General Coverage under the Policy and not the
2 lesser Deferred Payments coverage; and

3 d. Plaintiff has complied with all Plaintiff's duties under the Policy, or, in
4 the event that Plaintiff has not complied with its duties, such
5 noncompliance is excusable and does not prevent Plaintiff from receiving
6 benefits under the Policy.

7 33. Plaintiff is entitled to a determination of its rights with respect to
8 (1) the validity of its claim against Defendant, (2) Plaintiff's compliance with all of
9 its obligations under the Policy, and (3) Defendant's breach of the Policy.

10
11 **PRAYER**

12
13 **WHEREFORE**, Plaintiff prays for a jury trial and judgment against
14 Defendant as follows:

15 1. For all recoverable damages according to proof for Defendant's
16 breaches of contract, in the amount of not less than \$190,000.00 plus interest at the
17 legal rate from the date Defendant denied Plaintiff's claim;

18 2. For all recoverable damages according to proof in the amount of not
19 less than \$190,000.00 for the Defendant's breaches of the covenant of good faith
20 and fair dealing;

21 3. For all recoverable damages according to proof in the amount of not
22 less than \$190,000.00 for the Defendant's first party insurer bad faith, including
23 punitive damages.

24 4. For an order declaring:

- 25 a. The Policy obligates Defendant to pay the Claim in full;
26 b. The Claim is not excluded under the Policy;

- 1 c. The Claim falls within the General Coverage under the Policy
2 and not the lesser Deferred Payments coverage; and
3 d. Plaintiff has complied with all Plaintiff's duties under the Policy,
4 or, in the event that Plaintiff has not complied with its duties,
5 such noncompliance is excusable and does not prevent Plaintiff
6 from receiving benefits under the Policy.

7 5. For attorneys' fees incurred in obtaining policy benefits, including the
8 attorneys' fees and costs incurred in bringing this action;

9 6. For costs of suit incurred herein; and

10 7. For all such other and further relief as is proper.

11
12 Dated: June 21, 2011

CADDEN & FULLER LLP

13
14 By 

15 Thomas H. Cadden
16 Ignacio J. Lazo
17 Nathaniel J. Tarvin
18 Attorneys for Plaintiff,
19 Baillie Lumber Co., L.P.
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ace usa

International Advantage

Commercial Insurance Policy Endorsements

Exhibit "A"

***INTRODUCTION**

This(ese) are your commercial insurance policy endorsements. They modify your coverage, please read them carefully. They may also add coverages to your existing policy.

You, Your, We, Us, and Our

Throughout the policy and applicable endorsements, the terms "you" and "your" mean the person, people, or organization shown as the Named Insured in the Declarations. "We," "us," and "our" mean the insurance company issuing this policy. Besides you, there may be other people "insured" under certain parts of the policy.

Word in Quotation Marks

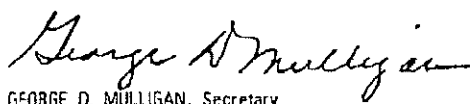
Words and phrases that appear in quotation marks have the special meaning given to them in the Section - DEFINITIONS of the coverage form in which they appear.

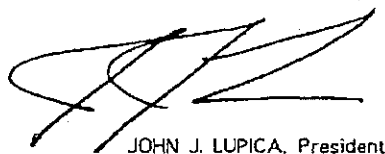
Insured

The word "insured" means any person or organization qualifying as such under the WHO IS AN INSURED sections of the coverage form in which they appear.

By signing and delivering the endorsement(s) to you, we state that it is a valid contract when counter-signed by our authorized representative.

ACE AMERICAN INSURANCE COMPANY


GEORGE D. MULLIGAN, Secretary


JOHN J. LUPICA, President



ace usa

Named Insured: BAILLIE LUMBER CO.

Policy Number: PHFD36831893

Endorsement Number: 023

Effective: March 1, 2009

Policy Year From: March 1, 2009

To: March 1, 2010

Company Name: ACE American Insurance Company

Premium: ☐ Included ☒ \$ 14,259 REVISED Due When Coverage Begins:

**INTERNATIONAL ADVANTAGE
COMMERCIAL INSURANCE RENEWAL DECLARATION**

<u>LINE OF COVERAGE</u>	<u>LIMITS</u>	<u>PREMIUM</u>
COMMERCIAL GENERAL LIABILITY COVERAGE	\$1,000,000 \$1,000,000 \$1,000,000 \$1,000,000 \$10,000	each "occurrence" products/completed operations aggregate personal & advertising injury aggregate premises damage limit (each "occurrence") medical expense limit (any one person)
CONTINGENT AUTOMOBILE LIABILITY COVERAGE	\$1,000,000	each "accident"
HIRED AUTO PHYSICAL DAMAGE	\$1,000 \$10,000	each one "accident" each one Policy Period
EMPLOYEE BENEFITS LIABILITY ENDORSEMENT	\$1,000,000 \$1,000,000	each claim annual aggregate
EMPLOYERS RESPONSIBILITY		
I. BENEFITS FOR VOLUNTARY COMPENSATION		
North Americans:	STATE OF HIRE	
Third Country Nationals:	COUNTRY OF ORIGIN	
Local Nationals:	COUNTRY OF ORIGIN	
II. EXECUTIVE ASSISTANCE SERVICES	\$1,000,000	policy limit for Medical Assistance Services
EMPLOYERS LIABILITY		
BODILY INJURY BY ACCIDENT	\$1,000,000	each accident
BODILY INJURY BY DISEASE	\$1,000,000	each employee
including by "endemic disease"		
BODILY INJURY BY DISEASE	\$1,000,000	policy limit
including by "endemic disease"		
AD&D	SEE ATTACHED	
EMPLOYEE DISHONESTY	NOT COVERED	
COMMERCIAL PROPERTY	SEE ATTACHED	
CARGO	NOT COVERED	"personal property" in transit
K&E	\$1,000,000	per cause of loss

TOTAL PREMIUM \$14,259

TOTAL MINIMUM EARNED PREMIUM:

PREMIUM AUDIT DOES NOT APPLY

All other terms and conditions remain unchanged

Not valid unless countersigned by a duly authorized representative

Van Meter Insurance

830 Crescent Centre Dr.
Suite 260
Franklin, TN 37067

**ace usa**

Named Insured: BAILLIE LUMBER CO.

Policy Number: PHFD36831893

Declarations Effective: March 1, 2009

Policy Period: From: March 1, 2009

To: March 1, 2010

Company Name: ACE American Insurance Company

COMMERCIAL PROPERTY/BUSINESS INCOME COVERAGE DECLARATIONS

Insurance applies only to those coverages for which a Limit of Insurance is shown.

Limits of Insurance/ Per Occurrence	Coverages	Locations
NOT COVERED	"Building"	OUTSIDE STORAGE CALLE EXPORTADORES, NO. 118 SCCION DORADA CD. INDUSTRIAL TIJUANA MEXICO C.P. 22500
\$200,000	"Personal Property"	
NOT COVERED	Other	
NOT COVERED	"Business Income"	
NOT COVERED	"Building"	
NOT COVERED	"Personal Property"	
NOT COVERED	Other	
NOT COVERED	"Business Income"	
NOT COVERED	"Building"	
NOT COVERED	"Personal Property"	
NOT COVERED	Other	
NOT COVERED	"Business Income"	
NOT COVERED	"Building"	
NOT COVERED	"Personal Property"	
NOT COVERED	Other	
NOT COVERED	"Business Income"	
NOT COVERED	"Personal Property" at any Unnamed Location except while in transit	
NOT COVERED	"Personal Property" at any one Exhibition site	
NOT COVERED	"Personal Property" used only for sample purposes in the custody of any one salesperson	
NOT COVERED	"Personal Property" In Transit	

Applicable Causes of Loss: SPECIAL FORM

Reporting Period: Annual

Extensions of Property Coverage:

The Limits of Insurance for Extensions of Property Coverage apply in addition to the Limits of Insurance shown above for Named Locations. When Limits of Insurance for Unnamed Locations apply to a loss, the Limits of Insurance for Extensions of Property Coverage are included in the Limit of Insurance which applies to Unnamed Locations. This insurance applies only to those extensions for which a Limit of Insurance is shown.

Limits of Insurance	Extension of Property Coverage
\$100,000	Newly acquired "building"
\$100,000	"Personal property" at any newly acquired location
\$100,000	EDP and Special Objects
\$100,000	EDP and Special Objects Expediting Expense
\$100,000	Additional Extra Expense
\$100,000	Rents
\$100,000	Leasehold Interest
\$25,000	"Valuable papers and records" – Research
\$25,000	Accounts Receivable
\$5,000	"Money" & "Securities" – on the premises
\$5,000	"Money" & "Securities" – off the premises
\$25,000	Brand and label
\$25,000	Consequential Damage
\$25,000	"Fine arts" any "covered location"
\$25,000	"Fine Arts" In transit
\$25,000	"Deferred payments" any "covered location"
\$25,000	"Deferred Payments" any in transit
\$25,000	Installation at any job site
\$25,000	Inventory or appraisals
\$100,000	Tenants and Neighbors Liability
\$25,000	Debris Removal
\$25,000	Pollution "Clean-Up"
\$25,000	Fire Department Service Charge
\$10,000	Any one "occurrence" for "outdoor property"
\$1,000	"Personal Effects" - per person
\$5,000	"Personal Effects" – per "occurrence"

EXTENSIONS OF BUSINESS INCOME AND EXTRA EXPENSE COVERAGE:

In order for the EXTENSIONS OF BUSINESS INCOME AND EXTRA EXPENSE COVERAGE to apply a Limit of Insurance must be shown above for "Business Income". This insurance applies only to those Extensions for which a Limit of Insurance is shown.

EXTENSIONS OF BUSINESS INCOME AND EXTRA EXPENSE COVERAGE:

Limits of Insurance	Extension
NOT COVERED	at each newly acquired location
NOT COVERED	at any "contingent business location"
NOT COVERED	EDP and Special Objects
NOT COVERED	Public Utilities
NOT COVERED	Auditors Fees
NOT COVERED	While in Transit

DEDUCTIBLE APPLICABLE TO PROPERTY AND BUSINESS INCOME COVERAGES:

\$2,500	Property/Business Income
\$5,000	THEFT
\$10,000	Flood, Earthquake, Windstorm

Coverage Territory for Property and Business Income Coverage

The Coverage Territory for COMMERCIAL PROPERTY COVERAGE, and INTERNATIONAL BUSINESS INCOME AND EXTRA EXPENSE COVERAGE is

ANYWHERE IN AND IN TRANSIT WITHIN AND BETWEEN ANYWHERE IN THE WORLD, but excludes:

1. the United States of America (including its territories and possessions) and Puerto Rico
 2. any country or jurisdiction which is the subject of trade or economic sanctions imposed by the laws or regulations of the United States of America.
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ace usa

NAMED INSURED: BAILLIE LUMBER CO.

POLICY NUMBER: PHFD36831893

DECLARATIONS EFFECTIVE: March 1, 2009

COMPANY NAME: ACE AMERICAN INSURANCE COMPANY

REVISED

ACCIDENTAL DEATH AND DISMEMBERMENT DECLARATIONS

Insurance applies only to those coverages for which a Principal Sum is shown.

Regardless of the number of accidents, occurrences, covered persons, or claims, the company shall not be liable for any amount in excess of the applicable aggregate limit of liability set out below. If, in the absence of this provision, the company would pay more than the amount of such aggregate limit for a particular coverage, then the benefits payable to each covered person with a valid claim for such coverage will be reduced proportionately, so that the total amount the company will pay for such coverage is no greater than the applicable aggregate limit.

Accidental Death and Dismemberment – Medical Coverage:

COVERAGE A

Principal Sum: \$ 100,000 Spouse: \$ NOT COVERED Child: \$ NOT COVERED

Coverage B

Principal Sum: \$ 10,000 Spouse: \$ NOT COVERED Child: \$ NOT COVERED

AGGREGATE LIMIT OF LIABILITY: \$ 1,500,000

Accidental Death and Dismemberment and Medical Coverages including Occupational Injury:

Coverage A

Principal Sum: \$ NOT COVERED Spouse: \$ NOT COVERED Child: \$ NOT COVERED

COVERAGE B

Principal Sum: \$ NOT COVERED Spouse: \$ NOT COVERED Child: \$ NOT COVERED

Aggregate Limit of Liability: \$

Accidental Death and Dismemberment and Medical Coverage for Educational Services

Coverage A

Principal Sum: \$ NOT COVERED

Coverage B

Principal Sum: \$ NOT COVERED

Aggregate Limit of Liability: \$



ace usa

Named Insured: BAILLIE LUMBER CO.

Policy Number: PHFD36831893

Liberalization

During the policy year, and any subsequent renewal, we may replace any of the forms with a revised form of the same form number as shown below. You will have the benefit of any changes in coverage in the revised form as though the changes had been part of this policy at the beginning of the policy year in which we first used such form to replace the form of the same number listed below.

This policy consists of the following printed forms:

IT1111 02-2005	Signature Page - Endorsement
IT8W31 01-2003	Renewal Certificate with Executive Assistance (Advantage)
IT1568 09-2008	Commercial Property/Business Income Coverage Declarations
IT1229 10-2008	Accidental Death And Dismemberment Declarations



Commercial Property and Business Income Conditions and Definitions

The conditions and definitions which follow apply to the COMMERCIAL PROPERTY COVERAGE FORM, BUSINESS INCOME AND EXTRA EXPENSE FORM, and the BOILER AND MACHINERY COVERAGE FORM.

YOUR DUTIES IN CASE OF LOSS

If there is damage or loss to your "property," you have the following responsibilities:

Notification

Notify us or our agent as soon as it is reasonably possible to do so. Notice to the agent will be considered notice to us.

If the loss or damage is the result of a crime, notify the police immediately.

Protection of "Property"

Take all reasonable steps to protect the "property" from further damage by a Covered Cause of Loss. We will pay reasonable expenses you incur for repairs, and our proportionate share of other reasonable expenses you incur, in order to prevent further damage by a Covered Cause of Loss.

Resumption of "Operations"

Resume all or part of your "operations" as quickly as possible.

Inventory

Separate the damaged from the undamaged "property" to the extent that this is possible. Provide a complete inventory of the damaged and undamaged "property," including the original cost of the "property," its "replacement cost," and the amount of loss you are claiming.

However, if the total claim for any loss is less than \$10,000, you are not required to provide an inventory of the undamaged "property."

Proof of Loss

Give us a signed and sworn proof of loss that states:

the time and origin of the loss;

the interest you and anyone else have in the "property";

the "replacement cost" of each item or the "actual cash value," whichever is applicable, and the amount of loss it suffered;

any other insurance on the "property," whether valid or not;

any legal rights of others to the "property";

any changes in the title, use, occupancy, location, possession or exposures of the "property" since the policy was issued;

who occupied the "property" and for what purposes; and

whether the "property" stood on ground that was leased at the time of loss.

You must also give us a copy of the descriptions and schedules in all policies and, if required, the plans and specifications of any "building," fixture, or machinery that was destroyed or damaged. You must exhibit to us or any person we designate whatever remains of the "property."

You must provide us with the proof of loss and any other required documents within 60 days after our request. You must also permit us to examine and copy any of your books and records at any reasonable time and place that we choose. You, your "employees" and your agents must, if we so require you, submit to examination under oath at such times as may be reasonably required, and sign a copy of the examination.

WHAT WE WILL PAY FOR PROPERTY LOSSES

Limits of Insurance

The most we will pay for "covered losses" that arise from any one "occurrence" is the applicable Limit of Insurance shown in the Declarations.

If we pay the Limit of Insurance for any one "occurrence," such Limit of Insurance will not be reduced for any future loss resulting from an unrelated "occurrence."

We may indicate that a combined limit of insurance applies to two or three of the following coverages: "building," "personal property," and business income. We will indicate that a combined limit of insurance applies by placing the word **"AND"** between the names of the coverages where they appear on the Declarations.

When we have indicated that a combined limit of insurance applies at a "covered location," that amount is the most we will pay for the sum of all "covered losses" that arise from any one "occurrence" regardless of the number of coverages represented by the combined limit.

Deductible

If a deductible applies to your loss, we subtract the amount of the deductible from the amount of your loss. The deductible applies separately for each "occurrence" of loss. The amount of the deductible is shown in the Declarations. We will only pay for a loss when it is in excess of this amount.

If there is more than one deductible which applies to losses resulting from any one "occurrence," we will subtract the largest applicable deductible.

Separate deductibles may be in the Declarations for specific coverages. No deductible applies to general average contributions and salvage charges.

If a Waiting Period is shown in the Deductible section of the Declarations, we will only pay for such actual loss of business income and extra expense as you sustain during that part of the necessary suspension of your "operations" which follows the Waiting Period and occurs during the "recovery period."

VALUATION

"Property" will be valued at "replacement cost" if actually repaired or replaced, unless the Declarations or this policy states otherwise for particular "property," or you may make a claim for "actual cash

value." If you make a claim for "actual cash value," you may still make a claim for the difference between "actual cash value" and "replacement cost," but you must notify us of your intent to do so within 365 days of the loss payment.

Building

The value of a "building" includes the cost of complying with the enforcement of any ordinance or law, in effect at the time of loss, regulating the construction, use or repair of any "building"; or requiring the tearing down of any "building," including the cost of removing its debris, and if you:

1. repair or rebuild the "building" as soon as reasonably possible, we will pay:
 - a. the replacement value of the damaged and undamaged portions of the "building";
 - b. the cost to demolish and clear the site of the undamaged portion of the "building"; and
 - c. the increased cost to repair or rebuild a "building" of the same general size;
2. do not repair, rebuild, or replace the "building," we will pay:
 - a. the "actual cash value" of the damaged and undamaged portions of the "building"; and
 - b. the cost to demolish and clear the site of the undamaged portion of the "building."

Personal Property

The value of "personal property" includes the cost of:

1. replacing labels, capsules, wrappers or containers from damaged "personal property"; and
2. the cost of identifying and reconditioning insured "personal property."

Other Property

The following "property" will not be valued at "replacement cost":

Exhibitions and displays will be valued at the amount that they cost you.

"Fine arts" will be valued at their market value at the time of loss.

Glass will be valued at the cost of replacement, including the cost of replacement with safety glazing material if required by law.

"Personal property" of others, including "personal effects," will be valued at the lesser of:

1. the owner's financial interest; or
2. your liability for the "personal property" of others.

Labor, materials and services that you furnish or arrange on "personal property" of others are valued based on the actual cost of the labor, materials and services.

"Personal property" you have sold but not delivered, and "finished stock," will be valued at the selling price less discounts and expenses you otherwise would have taken.

Accounts receivable, "valuable papers and records," and "electronic media and records" (other than prepackaged software programs) will be valued at the cost of:

1. Blank material for reproducing the records; and
2. Labor to transcribe or copy the records for which there are duplicates;

but excluding the cost of research and other expenses for reconstructing the records for which there

are no duplicates.

"Replacement Cost" Method

The most we will pay for losses to "property" valued by the "replacement cost" method is the least of the following:

1. the limit of insurance which applies to that "property",
2. the cost of replacing the lost or damaged "property" at the same location, and for the same use. However, you can build elsewhere; or
3. the amount which you actually spend to repair or replace the lost or damaged "property" with "property" of comparable kind and quality. You may substitute "property" of a different kind or quality, but we will not pay more than what it would cost to replace the lost or damaged "property" with "property" of comparable kind and quality.

We will only use the "replacement cost" method if you actually repair or replace the lost or damaged "property."

"Actual Cash Value" Method

The most we will pay for losses to "property" valued by the "actual cash value" method is the least of the following:

1. the limit of insurance which applies to that "property";
2. the "actual cash value" of the lost or damaged "property" at the time of loss; or
3. the amount which you actually spend to repair or replace the lost or damaged "property" with "property" of comparable kind or quality. You may substitute "property" of a different kind or quality, but we won't pay more than what it would cost to replace the lost or damaged "property" with "property" of comparable kind and quality.

Improvements by a Tenant

If you are a tenant at a "covered location" and "property" improvements for which you paid are lost or damaged by a Covered Cause of Loss at the "covered location," we will reimburse you for repairing or replacing them. We will pay their "replacement cost" if you repair or replace them within a reasonable time after the loss at the "covered location." We will not cover repairs or replacements which were made for your use at someone else's expense.

If you do not repair or replace the covered improvements within a reasonable time at the "covered location," we will pay the proportion of their original cost that

1. the time remaining at the time of the loss until the expiration date of your lease bears to
2. the time between the making of the improvements and the expiration date of the lease.

If your lease contains a renewal option, the expiration date of the renewal option period will replace the expiration date of the lease in such calculation.

If you purchased the interest in the use of improvements made by a previous tenant, we will cover them as if you had paid for them.

OTHER CONDITIONS AFFECTING LOSSES

Other Insurance

This insurance applies on a "differences" basis when you have loss or damage for which you do have other insurance:

1. issued in a country other than the country in which this insurance was issued;
2. intended to respond to claims in that other country; and
3. covering in whole or part the same loss or damage as this insurance covers.

When you have loss or damage for which you have no other insurance, this insurance will be "primary," and we will adjust and pay the claim according to the terms and conditions of this policy.

When you have loss or damage for which you have other insurance which applies on the same "primary" or "differences" basis as this insurance applies, this insurance will pay only for the amount of the covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not.

You may purchase other insurance to apply in excess of the coverage limits of this policy. The existence of such excess insurance will not affect the coverage provided by this policy.

Parts

If the loss or damage is to a part of "property" that consists of several parts, we will pay for only the lost or damaged part.

"Property" in Sets

The loss of an article which is part of a set will not be considered a loss of the entire set. Therefore, if there is loss or damage to "property" which is part of a set, we will pay a fair portion of the total value of the set.

Appraisal

If we cannot agree with you on the amount of the loss, either of us can demand that the following procedure be used to determine the amount.

1. You or we will request in writing that the dispute be submitted to appraisal within 60 days from the time we receive your proof of loss. Each of us will then select an appraiser and notify the other of that choice within 20 days of the initial request.
2. The appraisers will select an impartial umpire. If they cannot agree on an umpire within 15 days, either you or we can ask that an umpire be appointed by a judge of the court of record in the jurisdiction in which the appraisal is pending.
3. The appraisers will appraise each item for its value at the time of loss and the amount of loss. If they cannot agree, they will submit any differences to the umpire. An agreement in writing by any two of these three will determine the amount of the loss.
4. You will pay your appraiser and we will pay ours. Each of us will share equally any other costs of the appraisal and the umpire.
5. If we submit to an appraisal, we will still retain our right to deny the claim.

Our Options After a Loss

If you have a loss, we can:

1. pay the value of lost or damaged "property";
2. pay the cost of repairing or replacing the lost or damaged "property," plus any reduction in value of repaired items;
3. take all or any part of the "property" at its agreed or appraised value;
4. repair, rebuild or replace the lost or damaged "property" with other "property" of like kind and quality within a reasonable time. We will tell you of our intention to do this within 30 days after receiving your proof of loss; or
5. make any adjustments or payments to others if they own the "property" that was lost or damaged.

Payment of Loss

We will pay you within 30 days after:

1. we reach an agreement with you or the owner of the "property";
2. the entry of a final court judgment; or
3. the filing of an appraisal award.

"Personal property" in the Custody of an Armored Vehicle Company

The most we will pay for any loss of "property" that is in the custody of an armored vehicle company is the portion of the loss that exceeds:

1. any amount you recover from the armored vehicle company under a "contract" you have with the company; or
2. any amount you recover from insurance carried by the armored vehicle company or by any other person or organization for the benefit of users of the armored vehicle company services.

Abandonment

There can be no abandonment of any "property" to us.

Control of "Property"

Any act or "neglect" of any person, other than you, beyond your direction or control will not affect this insurance.

If you violate a condition of this coverage, we will not pay for loss or damage at the involved location. But your coverage will continue for other locations at which the violation does not apply.

"Property" Recovered After Settlement

Either you or we will give the other prompt notice of any "property" recovered after a loss is settled. We will then deduct any recovery expenses and apply any balance as though the recovery had been made prior to settlement. We will then readjust the amount of loss accordingly.

Release of Others

You can, prior to loss, release others (except bailees and carriers) in writing from legal responsibility for loss to "building" or "personal property."

This insurance policy has no direct or indirect effect on the rights of carriers (such as railroads) who transport your "property." Unless you agree, this policy will not have any effect on bailees. You have an obligation to us not to make any special agreements with carriers if the agreements release them from their common law or statutory liability. If you settle or compromise any claim for your losses without our consent, we have no obligation to pay you for such loss.

Recovery Rights

If we pay a claim under this policy, we are entitled, to the extent of our payment, to take over your

related rights of recovery from other people and organizations. You have an obligation not to make it harder for us to enforce these rights. You agree to sign any papers, deliver them to us, and do anything else that we may reasonably require to help us exercise our rights.

Suits Against Us

You agree not to bring suit against us unless you have complied with all the terms of this policy. Any such suit must be brought within two years after the direct physical loss or damage occurred.

No person or organization has any right to bring us into any action to determine your liability.

Concealment, Misrepresentation or Fraud

This insurance is void in any case of fraud by you relating to it. It is also void if you intentionally conceal or misrepresent a material fact concerning this insurance, the covered "property," or your interest in the covered "property."

Insurance under Two or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of loss or damage.

COMMERCIAL PROPERTY COVERAGE DEFINITIONS

Accident

"accident" means a sudden and accidental breakdown of the "object" or a part of the "object." At the time the breakdown occurs, it must manifest itself by physical damage to the "object" that necessitates repair or replacement.

If an initial "accident" causes other "accidents," all such accidents will be considered as one "accident."

"accident" will not include loss from:

1. fire or "explosion" that occurs at the same time as an "accident" or ensues from an "accident." However, with respect to any electrical equipment forming a part of an "object," "accident" will not include loss from fire or "explosion" outside the "object" that occurs at the same time as an "accident" or ensues from an "accident";
2. an "accident" that is the direct result or indirect result of an "explosion" or fire;
3. water or other means used to extinguish a fire, even when the attempt is unsuccessful; or
4. the functioning of any safety or protective device.

Actual cash value

means the "replacement cost," at the time of loss, of the "property" damaged or destroyed, less depreciation.

Animals

means all animals including birds, fish, insects and vermin.

Bonus payments

mean the unamortized portion of a cash bonus you paid to acquire a lease and that will not be refunded. "Bonus payments" do not mean rent or security, even if you prepaid the rent or security.

Building

has the meaning set forth in the section titled "Property" of the Commercial Property Coverage Form.

Burglary

means wrongful taking of "property," either:

from the location, after the people who took the "property" made a provable, forcible entry into the location;

from inside a showcase or show window outside the location, after the person who took the "property" made a provable, forcible entry into the showcase or show window; or

from inside the location, when the person who took the "property" made a provable, forcible exit from the location.

"Burglary" from a safe

means the wrongful taking of "property" from a locked vault or safe at your location. There must be evidence that actual force and violence were used to open the vault or safe. "Burglary" from a safe also includes stealing an entire safe.

Business Income

has the meaning set forth in the section titled "Coverage" of the Business Income and Extra Expense Coverage Form.

Clean-up

includes testing, monitoring, removal, containment, treatment, detoxification or neutralization.

Contingent business locations

means locations operated by others on whom you depend to:

1. deliver materials or services to you or to others for your account (Contributing Location);
2. accept your products or services (Recipient Location);
3. manufacture products for delivery to your customers under "contract" of sale (Manufacturing Location);
4. attract customers to your business (Leader Location);

and includes locations operated by you:

5. within the "coverage territory" on which you depend to deliver to locations outside the "coverage territory" materials or services to you or to others for your account (Source Location)
6. outside the "coverage territory" on which you depend to accept your products or services from locations operated by you within the "coverage territory" (Destination Location).

Contract

means an agreement you enter into with someone else relating to the "operations" of your business.

Coverage territory

means the Coverage Territory for Property Insurances shown in the Declarations.

Covered location

means a plot of ground, a "building" or a portion of a "building" that you use to conduct your business activities and for which the address is shown in the Declarations, including:

1. when there is a Limit of Insurance shown in the Declarations for Unnamed Locations, any such

place where you may have "property" located within the "coverage territory"; and

2. when the Declarations include coverage for "contingent business locations," such locations are "covered locations" for the Contingent Business Locations Extension of the Business Income and Extra Expense Coverage Form.

Covered loss

means loss, or damage for which we provide insurance under the terms of this policy.

Deferred payments

means your interest in lost or damaged "personal property" sold by you under a conditional sale or trust agreement or under any installment or deferred payment plan after delivery to buyers.

Differences

means insurance which pays only the amount by which the settlement under its terms and conditions exceeds the settlement to which the insured is entitled under the terms and conditions of other insurance the insured may have for the same loss or damage, including insurance issued on an excess basis, whether the insured can collect on the other insurance or not.

Earth movement

means earthquake, including, any tsunami, landslide, mudslide, sinking, rising or shifting of earth, which is caused by an earthquake.

Electrical or magnetic injury

means disturbance or erasure of electronic recordings by any electrical or magnetic force other than lightning.

Electronic data processing equipment

means data processing systems including equipment, component parts and related systems peripheral equipment including air conditioning and fire protective equipment used solely for data processing operations. This does not include equipment held for sale or distribution and equipment in course of manufacture.

Electronic media and records

Electronic data processing, recording or storage media such as films, tapes, discs, drums or cells, the information stored on such media, and programming records used for electronic data processing or electronically controlled equipment.

Elevator

means any hoisting or lowering device used to connect floors or landings. It also includes all cars, platforms, power equipment, machinery and other parts of the system.

Employees

are people who work for you in the conduct of your ordinary activities, in return for a salary, wages or commissions. In order to be considered an employee, a person must be subject to your exclusive direction in the performance of his or her activities. Brokers, factors, commission merchants, consignees, contractors and agents are not considered to be "employees."

Explosion

means the sudden release of a violent force. It is usually an expansion or bursting accompanied by noise. It includes the "explosion" of built-up gases or unused fuel in a firebox or combustion chamber, or the flues or passages that carry the gases or fuel from them. However, concussions that are not caused by explosions are not considered explosions for purposes of this policy. Neither are "volcanic action," "nuclear activity," water hammer (the pressure of fluid against the sides of a pipe caused by a sudden stoppage of flow), electrical arcing, the rupture or bursting of water pipes, rupture or bursting of moving parts of machinery caused by centrifugal force or mechanical breakdown, or rupture that occurs if water causes the expansion or swelling of the contents of a "building."

Extra Expense

has the meaning set forth in the section titled "Coverage" of the Business Income and Extra Expense Coverage Form.

Fine arts

means "property" that is rare or that has historic or artistic value including works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac.

Finished stock

means "stock" you have manufactured. "Finished stock" does not include "stock" you have manufactured that is held for sale at the location of any retail outlet insured for Business Income and Extra Expense.

Flood

means the overflow from a stream or any other body of water. It also means surface water, waves, tidal waters or movements, or spray from any of these, whether driven by wind or not.

Government activity

means:

1. the seizure or destruction of "property" by any government body, including any customs or quarantine action; or
2. confiscation or destruction of "property" by order of any government or public authority;
3. any direct or indirect loss that results from 1. or 2. above, even if the resulting loss would otherwise be covered;

but this exclusion does not apply to an order to destroy "property" to prevent loss or damage by a Covered Cause of Loss.

Hijack

means stopping a vehicle in transit and ultimately stealing from it.

Improvements and betterments

means your use interest as tenant in fixtures, alterations, installations or additions:

1. Made a part of a "building" you occupy but do not own; and which
2. You acquired or made at your expense but which you cannot legally remove.

Improvements and betterments interest

means the unamortized portion of payments you have made for "improvements and betterments."

Insurance for "improvements and betterments interest" applies as excess insurance over the amount you recover for loss of your interest in "improvements and betterments" under any other insurance or from any other party.

Money

means currency, coins, bank notes, bullion; also, travelers checks, registered checks and "money" orders held for sale.

Monthly limit of insurance

means the amount we will pay for each month remaining in an unexpired, but canceled, lease.

For "tenants' lease interest" and "sublease profit," the "monthly limit of insurance" is the difference between:

1. the monthly rental value of the location you lease or sublease; and
2. the actual monthly rent you pay including taxes, insurance and janitorial or other services for which you pay as a part of rent

For "bonus payments," "improvements and betterments interest" and "prepaid rent," the "monthly limit of insurance" is your original cost divided by the number of months left in your lease at the time you made the expenditure.

Neglect

means your failure to take all reasonable steps to protect your "property" when it is threatened with loss or damage, and to take all reasonable steps to protect your "property" from further loss after loss or damage occurs.

Nuclear activity

means loss from nuclear reaction, nuclear radiation or radioactive contamination, whether deliberate or accidental, controlled or uncontrolled; and whether or not

the loss is direct or indirect, proximate or remote, or is contributed to or aggravated by a covered cause of loss. "Nuclear activity" does not include loss or damage by resulting "explosion," fire or smoke.

Object

means any:

1. boiler, fired vessel, unfired vessel normally subject to vacuum or internal pressure other than weight of its contents, refrigerating and air conditioning vessels, and any metal piping and its accessory equipment;
2. mechanical or electrical machine or apparatus used for the generation, transmission or utilization of mechanical or electrical power.

Occurrence

means a sudden, unforeseen, unintended event, including continuous or repeated exposure to the same event, that results, during the Policy Period, in loss or damage to your "property," or in bodily injury, personal injury, or property damage. Such loss or damage must be neither expected nor intended by you.

Operations

means the type of business activities you conduct at the "covered location."

Ordinary payroll

means the entire payroll expense for all your "employees" except officers, executives, department managers, "employees" under "contract" and other key "employees."

"Ordinary payroll" includes payroll, employee benefits directly related to payroll, social security scheme payments, union dues, and workers compensation premiums.

Outdoor Property

means outdoor fences, radio and television antennas, signs (other than signs attached to "buildings"), trees, shrubs, plants and lawns.

Personal effects

means "property" other than "money" or "securities" that belongs to an individual and is devoted primarily to that individual's personal use; for example, clothing, luggage, household furnishings or writing materials.

Personal property

has the meaning set forth in the section titled "Property" of the Commercial Property Coverage Form.

Personal property in transit

has the meaning set forth in the section titled "Property" of the Commercial Property Coverage Form.

Primary

means insurance issued to respond prior to other insurance to claims for loss or damage.

Pollutants

means any solid, liquid, gaseous or thermal irritant or contaminant, including vapor, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Prepaid rent

means that unamortized portion of any rent you prepay at the inception of your lease that will not be refunded to you.

"Prepaid rent" does not mean the customary rent due at:

1. the beginning of each month; or
2. the beginning of any other rental period.

Property

means "buildings" including newly acquired "buildings," "personal property," and "personal property" at a "contingent business location."

Recovery period

means the period of time that begins with:

1. the date of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the "covered location" or at the "contingent business location"; or

2. the date "operations" would have begun if the direct physical loss or damage had not occurred, when the start of "operations" is delayed by loss or damage at a "covered location" or "contingent business location," to:

- a. completed additions, additions under construction, alterations and repairs to the "building"; or
- b. materials, equipment, supplies and temporary structures, used for making additions, alterations or repairs to the "building."

The "recovery period" ends on the date when the "property" (except "finished stock") at the "covered location" or "contingent business location":

1. should be repaired, rebuilt or replaced with reasonable speed and similar quality; and includes
2. any increased period required due to the enforcement of any law in force at the time of loss that regulates the construction, use or repair, or requires the tearing down of any "property."

The expiration date of this policy will not cut short the "recovery period."

The "recovery period" does not include any increased period required due to the enforcement of any law that regulates the prevention, control, repair, "clean-up" or restoration of environmental damage.

Replacement cost

means the amount it would take to replace "property" with "property" of the same kind and quality, determined at the time of loss.

Resulting fire or explosion

means a fire or "explosion" that results from any cause of loss other than "war," whether or not that cause of loss itself is covered under this policy.

Robbery

means:

using violence or the threat of violence to take "property" from a person;

taking "property" from a person who has been killed or made unconscious; or

committing any felonious act in the presence of a person in order to take "property" from that person. However, the victim must be aware that the felonious act is taking place.

Securities

means negotiable and nonnegotiable instruments or "contracts" that represent "property" or obligations to pay "money," stamps, including revenue stamps, are "securities"; so are tokens and tickets. However, stamps are covered only for their face value. "Money" is not considered to be "securities."

Sinkhole collapse

means sudden sinking or collapse of land into underground empty space created by the action of water on limestone or similar rock formations. "Sinkhole collapse" does not include the cost of filling sinkholes.

Sonic boom

means the shock wave, and resulting noise, produced by an aircraft or missile attaining or exceeding the speed of sound.

Specified causes of loss

means the following: fire; lightning; "explosion"; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; "sinkhole collapse"; "volcanic action"; falling objects; weight of snow, ice or sleet; water damage.

Falling objects does not include loss or damage to:

1. "Personal property" in the open; or
2. The interior of a "building," or "property" inside a "building," unless the roof or an outside wall or the "building" is first damaged by a falling object.

Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking or cracking of any part of a system or appliance containing water or steam.

Sprinkler leakage

means leakage or discharge of any substance from an automatic "sprinkler system." It includes the collapse or fall of a tank that is part of a plumbing system or an automatic "sprinkler system." It also includes damage caused by breakage or freezing of parts of an automatic "sprinkler system" installed in a "building," if "sprinkler leakage" results from such damage.

Sprinkler system

means an automatic fire protection system. Sprinkler heads, discharge nozzles and ducts, pipes, valves, fittings, tanks, tank parts and supports, pumps, and private fire protection systems which are connected to the "sprinkler system" are considered to be part of the system. So are non-automatic fire protection systems, hydrants, standpipes, and hose outlets supplied from the automatic fire protection "sprinkler system."

Stock

means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

Strike

includes interference by strikers or other persons with your "operations," or with the repair, rebuilding or replacement of "property," or with the resumption of "operations."

Sublease profit

means the profit you earn through subleasing the "building" or portion of the "building" you rent for the unexpired term of the lease or sublease whichever expires first.

Tenants' lease interest

means the difference between the actual monthly rental value of the location at the time of loss and the monthly rent due for the unexpired term of the lease.

Theft

means the unlawful taking of "personal property" without the owner's consent and includes pilferage, looting, larceny, "burglary" and "robbery." But "theft" does not mean mysterious disappearance, unexplained loss or inventory shortage.

Vacant

when referring to a "building," means that the "building" doesn't contain the "personal property" used in the business that is ordinarily conducted there. "Buildings" under construction are not considered "vacant."

Valuable papers and records

means documents that are written, printed, or otherwise inscribed including:

books, manuscripts, abstracts, maps and drawings; film and other photographically produced records, such as slides and microfilm; legal and financial agreements such as deeds, mortgages and leases; addressograph plates; and any electrically produced data such as printouts, punched cards, tapes or disks; but does not include accounts receivable.

Volcanic action

means the direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by airborne volcanic blast or airborne shock waves; or ash; dust or particulate matter; or lava flow.

All volcanic eruptions that occur within any 72-hour period will constitute a single "occurrence."

"Volcanic action" does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described "property."

War

means any of the following:

1. Hostile or belligerent action, including action in hindering, combating or defending against an actual, impending or expected attack by:
 - a. any government or sovereign power (de jure or de facto);
 - b. any military, naval, air or nuclear forces; or
 - c. any agent of such government, power, authority or forces;
2. Insurrection, invasion, rebellion, revolution, civil war, usurped power or action taken by governmental authority in hindering, combating or defending against such an event.



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COMMERCIAL PROPERTY COVERAGE FORM

This form, together with the Commercial Property and Business Income Conditions and Definitions Form, describes your property coverage.

YOUR PROPERTY COVERAGE

We will pay for direct physical loss of or damage to "property" caused by or resulting from a Covered Cause of Loss. For coverage to apply, there must be in the Declarations a Limit of Insurance for the "property" for the Named Location where loss occurred, or for Unnamed Locations, or for "personal property in transit," and loss must occur within the "coverage territory."

Property

When shown in the Declarations, property coverage applies to the kinds of property defined in this section.

"Building" means a building or structure including:

1. Completed additions, permanently installed fixtures, signs, machinery and equipment, and outdoor fixtures;
2. "Personal property" owned by you that is used to maintain or service the building or structure or its location, including: fire extinguishing equipment, outdoor furniture, floor coverings, and appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
3. Additions under construction, alterations and repairs to the building or structure; materials, equipment, supplies and temporary structures, on or within 100 feet of the "covered location," used for making additions, alterations or repairs to the building or structure.

Coverage for "building" includes your costs resulting from your compliance with any ordinance or law, in effect at the time of loss, regulating the construction, use or repair of any "building"; or requiring the tearing down of any "building," including the cost of removing its debris;

"Personal property" means your business personal property at a "covered location" in or on the "building" or in the open (or in a vehicle) within 100 feet of the "covered location," consisting of the following unless otherwise specified in the Declarations:

1. Furniture and fixtures, machinery and equipment, "stock," all other "personal property" owned by you and used in your business;
2. "Improvements and betterments";
3. Your interest in labor, materials or services furnished or arranged by you on "personal property" of others; and
4. "personal property" of others in your care, custody or control. However, our payment for loss of or damage to "personal property" of others will only be for the account of the owner of the property.

"Personal property in transit" means your "personal property," or "personal property" of others in

your care, custody or control, while it is being transported:

1. by aircraft or ocean-going vessel between points within the same country if that country is within the "coverage territory";
2. by your own land motor vehicles or by "common carriers" between points in the "coverage territory"; or
3. while on ferries, carfloats or lighters in connection with transportation in 1. or 2. above.

"Common carriers" means railroad companies, public truckmen, or motor transportation companies.

Coverage applies from the time the "property" passes into the custody of carrier, in due course of transit until delivered by carrier at destination, and including risks incidental to transit, on or in docks, wharves, piers, bulkheads, sidewalks, "elevators," depots, yards, terminals, stations, garages, platforms, receiving and/or forwarding offices.

For covered "personal property in transit" we will also pay:

1. Your interest in shipments sold under "Free on Board" or "Freight Allowed" terms, provided any amount recoverable is not collectible from the purchaser or under any other insurance that would have attached if this policy had not been issued;
2. Loss or damage to returned shipments and shipments which may have been refused and/or goods or merchandise temporarily held in custody of a carrier awaiting disposition instructions;
3. Loss of "property" to which this policy is applicable, obtained by fraud or deceit perpetrated by any person or persons who may represent themselves to be the proper party to receive goods for shipment or accept goods for delivery.

We will pay for shipments by mail only if sent by registered mail.

We will not cover "personal property in transit" that consists of:

1. Import shipments from a point outside the "coverage territory" prior to either discharge from aircraft or ocean-going vessel or termination of the risk assumed by cargo insurance;
2. Export shipments to a point outside the "coverage territory" after being loaded on aircraft or ocean going vessel or having come under the protection of cargo insurance, or;
3. Any shipment, during the period for which the contract of carriage is governed by international airway bills, bills of lading, or similar documentation issued in terms of COGSA (Carriage of Goods by Sea Act) or its current foreign equivalent.

The limit of insurance at Unnamed Locations does not apply to "personal property in transit."

Property Not Covered

Property Coverage does not apply to the following:

"money" and "securities," "valuable papers and records" - research, "accounts receivable," "outdoor property," "deferred payments" and "personal effects," except as provided in Extensions of Property Coverage;

land (including land on which the "property" is located), water, "animals," growing crops;

foundations of "buildings," structures, machinery or boilers if such foundations are below the lowest basement floor or below the surface of the ground, if there is no basement;

the cost of excavations, grading, backfilling or filling; pilings, piers, wharves or docks; bridges, roadways, walks, patios or other paved surfaces; retaining walls that are not part of a covered "building"; underground pipes, flues or drains;

contraband, or "property" in the course of illegal transportation or trade;

vehicles or self-propelled machines (including aircraft or watercraft) that;

1. are licensed for use on public roads;
2. are operated principally away from "covered locations" or
3. you do not manufacture, process, warehouse or hold for sale,

but this paragraph does not apply to;

1. watercraft while ashore at "covered locations"; and
2. detached aircraft or watercraft engines, parts, accessories and equipment.

COVERED CAUSES OF LOSS

The Declarations indicate which Causes of Loss Form describes the Covered Causes of Loss.

EXTENSIONS OF PROPERTY COVERAGE

The limit of insurance shown in the Declarations for each Extension of Property Coverage will apply at each "covered location" except for the Extension for Newly-Acquired "Building" and "Personal Property." Extensions of Property Coverage are limited to loss or damage that is caused by a Covered Cause of Loss. All other applicable terms and conditions of this policy apply, unless specifically contradicted by provisions that appear within each extension.

When the word "included" appears in the Declarations in the place of any of the limits of insurance for Extensions of Property Coverage, the amount we will pay for a loss will not exceed the limit of insurance for that Named Location, or if applicable, the Limit of Insurance for Unnamed Locations.

Newly-Acquired "Building" and "Personal Property"

We will cover newly-acquired "buildings" you buy, lease or rent. Coverage applies for up to 180 days after you acquire the "building" or until the Policy Period ends, whichever is sooner.

Newly-acquired "buildings" must be intended for similar use as your existing "covered locations" or for use as a warehouse, and acquired after this Policy Period takes effect.

The most we will pay for newly-acquired "building" is the applicable limit shown in the Declarations. The deductible shown in the Declarations applicable to "building" will apply.

We will also cover "personal property" at a newly-acquired location. Coverage applies for up to 180 days after the "personal property" reaches the newly-acquired location, or until the Policy Period ends, whichever is sooner. The most we will pay for "personal property" at a newly-acquired location is the applicable limit shown in the Declarations. The deductible shown in the Declarations applicable to "personal property" will apply.

You agree to notify us as soon as possible of the value of newly-acquired "building" or "personal property" and to pay additional premium with effect from the date you acquire each.

EDP and Special Objects Coverage

We will pay for direct physical loss or damage to the following "personal property," including "personal property" of others in your care, custody or control, at a "covered location" or while it is "personal property in transit":

1. "electronic data processing equipment" and "electronic media and records"; and
2. "money" and "securities," accounts receivable, "valuable papers" and "fine arts";

when such direct physical loss or damage is caused by

1. artificially generated electric current, including electric arcing, that disturbs electrical devices, appliances or wires; and
2. mechanical breakdown, including rupture or bursting caused by centrifugal force.

We will not cover accidental erasure of information on "electronic media and records" in the absence of physical damage to the "electronic media and records."

We will not pay more for EDP and Special Objects Coverage than the limit shown in the Declarations for EDP and Special Objects.

We will also pay up to the limit shown in the Declarations for Expediting Expenses for the reasonable extra cost of temporary repair and of expediting the repair of damage covered by this Extension of Property Coverage, including overtime and rapid means of transportation.

Additional Extra Expense

If you have a limit for Additional Extra Expense shown in the Declarations, we will pay expenses over and above your ordinary business expenses, which are necessary to avoid or minimize the suspension of business and return to normal "operations" after a "covered loss" to "building" or "personal property" at a "covered location" or a "contingent business location." The most we will pay for Additional Extra Expense arising from any one "occurrence" is the coverage limit shown in the Declarations.

Additional Extra Expense coverage enables you to continue normal "operations" at a temporary location or with substitute equipment. However, you must make every reasonable effort to resume complete or partial "operations" as soon as possible. We will pay for your extra expenses only for the "recovery period."

Prohibited Access to Your Location. If "property" other than at your "covered locations" is damaged by a cause of loss insured against by this policy, and as a result, a government agency prohibits you from using your "covered locations," we will cover your extra expenses for up to 30 days.

Rents

We will pay up to the amount shown in the Declarations for loss of rents. Rents will be determined by calculating the sum of:

1. gross income from the "building";
2. amount of all charges assumed by the tenants which would otherwise be your obligation;
3. rental value of the part of the "building" occupied by you;
4. rental value of "vacant" parts of the "building" that would have been rented had no loss occurred; and
5. any other income derived from the use of the "building."

We will pay for the loss of rents you incur during the "recovery period."

We will also pay:

1. the loss of rents you incur due to the actual suspension or delay in the start of your "operations" when a civil authority prohibits access to your location because of direct physical loss or damage by a Covered Cause of Loss to "property" away from your location. Our coverage is limited to 30 days from the time the civil authority takes action; and
2. expenses which are necessarily incurred for the purpose of reducing loss. These are expenses in excess of those you would have incurred had there been no loss to the "building." In no event shall the total of these expenses exceed the amount by which the rents loss is reduced.

The amount of rents and other income loss will be determined based on:

1. the rents and other income of the "building" before the direct physical loss or damage occurred; and
2. the likely rents and other income of the "building" if no loss or damage occurred.

Leasehold Interest

Leasehold interest loss is the loss of "tenants lease interest," "sublease profit," "bonus payments," "improvements and betterments interest," and "prepaid rent" which you incur due to the cancellation of a lease at a "covered location." The cancellation must be a valid condition of your lease and must result from direct physical loss or damage, by a Covered Cause of Loss, to "property" at a "covered location."

When you rent the whole "building," we will only pay if:

1. at least 25% of the "building" has been damaged; or
2. a minimum of 6 months is required to repair the "building."

When you rent a portion of the "building," we will only pay if a minimum of 6 months is required to repair the "building."

If your lease is canceled and later renewed at a higher rent, the most we will pay is the rent you will pay under the new lease less the rent you were paying at the time of the loss.

We will not pay for any loss caused by:

1. your canceling the lease:

2. suspension, lapse or cancellation of any license; or
3. any consequential loss.

The most we will pay for loss or damage in any one "occurrence" is the limit of insurance shown in the Declarations for Leasehold Interest. The amount of loss we will pay will not exceed the "monthly limit of insurance" multiplied by the number of months remaining in the unexpired, but canceled, lease.

At the time of loss you may elect to receive either:

1. the "monthly limit of insurance" payable monthly; or
2. a total payment:
 - a. we will pay the "monthly limit of insurance" multiplied by the number of months remaining in the unexpired, but canceled, lease;
 - b. we will reduce the amount of payment determined in a. by the prime interest rate on the day of the loss; and
 - c. our discounted loss payment will equal the payments that would have been made on a monthly basis if you invest the total payment at an interest rate equal to the prime interest rate on the day of the loss for the same period of time that the monthly payments would have been made.

Valuable Papers and Records Research

We will pay up to the limit shown in the Declarations for the cost of research and other expenses for reconstructing the information on "valuable papers and records" for which there are no duplicates, in excess of the cost of:

1. blank material for reproducing the records; and
2. labor to transcribe or copy the records for which there are duplicates.

The limit for this Extension of Coverage applies to "valuable papers and records" including those which exist on "electronic media and records" (other than prepackaged software programs), that are lost or damaged in any one "occurrence."

Accounts Receivable

We will pay up to the amount shown in the Declarations for each "occurrence" of "covered loss" to your records of accounts receivable.

What We Will Pay

We will pay the following:

1. amounts customers owe you but you cannot collect because of loss or damage to your accounts receivable records;
2. extra collection costs;
3. interest charges on loans you have been required to obtain to compensate for accounts you cannot collect because of loss or damage to your accounts receivable records; and

4. reasonable costs of preparing new accounts receivable records to replace those lost or damaged.

To determine the amount of accounts receivable if you cannot determine the amount of accounts receivable that are outstanding at the time of a loss, we will determine the amount in the following way:

1. We will adjust your monthly average of accounts receivable to reflect the percentage increase or decrease in monthly gross sales that occurred in the twelve months prior to the month of the loss.
2. We will further adjust the monthly average to reflect any way in which the month when the loss occurred was different from an average month. We will also consider the normal fluctuations in accounts receivable within that month.
3. Finally, we will deduct:

the amount of accounts receivable for which records were not lost or damaged;

amounts you can prove by other evidence are owed to you, or amounts you are able to collect;

the amount of the bad debts you would not have been able to collect anyway; and

unearned interest and service charges on deferred accounts receivable payments;

but we will never pay more than the lesser of the adjusted highest monthly amount of accounts receivable or the applicable coverage limit shown in the Declarations.

Amounts you recover: if you recover any amounts after we have paid you for a loss, you will pay them to us until we have been repaid. If you recover more than the amount we paid you, the excess over our payment is yours. Also, if we request your help, you must help us collect amounts customers owe you.

"Money" and "Securities"

We will pay up to the amount shown in the Declarations for loss of "money" and "securities" that are

ON THE PREMISES meaning at a "covered location," in a bank, or in another recognized place of safe deposit; and

OFF THE PREMISES meaning

1. in the possession of an armored vehicle company, but not while in the mail or in the custody of a carrier for hire other than an armored vehicle company; or
2. in the possession of partners, officers, or directors of your business, or of "employees" who are legally holding them, regardless of where any of these people may be within the "coverage territory" at the time of the loss.

"Money" and "Securities" of Others

We will cover the "money" and "securities" of others that you hold in any capacity, or for which you are responsible. However, we will insure only your interest in the "money" and "securities," including your liability to others.

What We Will Pay

The amount we will pay for any loss of "securities" is the cash value of the "securities" at the end of the last business day before the loss was discovered or the actual cost of replacing the "securities," whichever is less. However, we will not pay for any loss of income, including interest or dividends, that occurs as a result of a loss we do cover.

If there is a loss to someone else's "personal property" that you hold as a pledge or as collateral for a loan, the most we will pay is:

the recorded value of the "property" at the time you made the loan, if you made such a record; or the amount of the loan that remains unpaid at the time of the loss, together with accrued interest on that amount at legal interest rates.

Losses that result from a series of related acts committed by one or more persons or organizations are considered to be a single "occurrence" of loss for purposes of applying these limits. We can settle any claim for loss to someone else's "property" with the owner of the "property."

"Money" and "Securities" in the Custody of an Armored Vehicle Company: the most we will pay for any loss of "property" that is in the custody of an armored vehicle company is the portion of the loss that exceeds the total of:

1. any amount you recover from the armored vehicle company under a "contract" you have with the company; and
2. any amount you recover from insurance carried by the armored vehicle company or by any other person or organization for the benefit of users of the armored vehicle company's services.

Brand and Label

You have two options when you do not want to sell your damaged "stock" under your brand or label, even though the damaged "stock" has a salvage value:

1. remove your brand or label and then relabel the "stock" to comply with the law; or
2. label the damaged "stock" as "salvage" but, in doing so, cause no further damage to the damaged "stock."

In either case, we will pay up to the amount shown in the Declarations for the difference between:

1. the salvage value of the damaged "stock" with your brand or label attached; and
2. the salvage value of the damaged "stock" with your brand or label removed.

Consequential Damage

When a part or parts of your product are physically lost or damaged by a Covered Cause of Loss causing the part or parts that are not damaged to be unmarketable as a complete product, we will pay for the reduction in value of the undamaged part or parts.

"Fine Arts"

We will pay for loss or damage to your "fine arts" or the "fine arts" of others in your care, custody or control at your "covered locations." "Fine arts" will be valued at their market value at the time of loss.

When a damaged "fine arts" article is part of a pair or set, you may choose one of the following methods of loss payment. We will pay you or the owner:

1. the market value of the entire pair or set. You will turn over the remaining pieces to us; or
2. the cost to repair the damaged pieces and you will keep the undamaged pieces. If the pair or set, with the repaired pieces, has a lower value than it had prior to the loss, we will also pay the amount of the difference in value. In no event will we pay more than the value the pair or set had prior to the loss; or
3. the market value of the lost or damaged pieces prior to the loss when the pieces cannot be found or repaired. You will keep the undamaged pieces. If the remaining pieces have a reduced value, we will pay the difference between the value of the remaining pieces prior to the loss and their value after the loss. In no event will we pay more than the value the pair or set had prior to the loss.

"Deferred Payments"

We will pay up to the amount shown in the Declarations for "deferred payments."

When a total loss of the sold "personal property" occurs, the amount of the "deferred payments" loss shall be the amount shown on your books as due from the buyer.

When a partial loss of the sold "personal property" occurs and the buyer refuses to continue payment, forcing you to repossess, the amount of "deferred payments" loss shall be as follows:

1. if the realized value of the repossessed "property" is greater than or equal to the amount shown on your books as due from the buyer, we will make no payment; or
2. if the realized value of the repossessed "property" is less than the amount shown on your books as due from the buyer, we will pay the difference.

When a partial loss occurs and the buyer continues to pay you, there will be no loss payment.

Installation

We will pay up to the amount shown in the Declarations for your "personal property" or the "personal property" of others in your care, custody or control while at a job site or while temporarily warehoused elsewhere;

1. awaiting and during installation;
2. awaiting and during tests; or
3. awaiting acceptance by the buyer.

Under this Extension of Property Coverage we will not pay for any loss or damage to "personal property" not a part of or intended to become part of the installation, and we will not pay for any loss or damage to tools or contractors' equipment.

This coverage ends when:

1. your interest in the "personal property" ceases;
2. the buyer accepts the "personal property"; or
3. this policy is terminated

Inventory or Appraisals

We will pay up to the amount shown in Declarations for the cost of any inventory or appraisal that is required when loss or damage occurs to insured "property."

Tenants and Neighbors Liability

We will pay up to the amount shown in the Declarations for the legal liability imposed on you in a country with the Napoleonic Code or similar civil or commercial code for loss or damage caused by a covered cause of loss to "property":

1. of which you are a tenant;
2. of neighbors and co-tenants;
3. of your tenants or sub-tenants

Debris Removal

We will also pay expenses you incur in removing debris of covered "building" and of covered personal property" from a "covered location" after a "covered loss";

Debris removal expenses will be paid only if they are reported to us within 180 days of the date of direct physical loss or damage or within 180 days of the end of the Policy Period whichever comes first.

The most we will pay for debris removal is

1. 25% of the total amount we pay for direct loss or damage to both covered "building" and covered "personal property" before the application of any deductible. However, payment for debris removal will not increase the applicable coverage limit; but
2. if the 25% limitation of debris removal coverage for "building" and "personal property" provided in a. above is exhausted; or
3. if the applicable limit of insurance at a "covered location" is exhausted;

we will pay up to the amount shown in the Declarations for expense you incur in removing debris of "property" from such "covered location" after a "covered loss."

Debris removal does not apply to expense for "clean-up" of "pollutants" from "property" or from land, air, or water.

Pollution "Clean-Up"

We will pay up to the amount shown in the Declarations in each annual period for expense you incur for "clean-up" of "pollutants" from "property" or from land, air, or water at "covered locations." The presence, release, discharge or dispersal of the "pollutants" must be caused by a covered cause of loss not otherwise excluded. The expenses must be reported to us within 180 days after the date of the direct physical loss or the expiration date of this policy, whichever comes first.

Fire Department Service Charge

We will pay up to the amount shown in the Declarations for fire department service charges that you have assumed by "contract" prior to a "covered loss," or that are required by local ordinance. We will pay for such charges only when a fire department is called to save or protect "property" from a "covered loss."

"Outdoor Property"

We will pay for loss or damage to "outdoor property," including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss: fire, lightning, "explosion," riot or civil commotion, or aircraft.

We will pay up to the amount shown in the Declarations for all loss or damage to "outdoor property," including debris removal expense, from any one "occurrence."

"Personal Effects"

We will cover "personal effects" in your care, custody or control belonging to anyone provided these items are at "covered locations."

The most we will pay for loss or damage are the amounts shown in the Declarations for:
"personal effects" of any one person;

"personal effects" in any one "occurrence."

However, we will not cover "personal effects" if they are covered by the owner under any other insurance policy, or if they would have been covered under any other policy if this policy did not cover them.

ADDITIONAL COVERAGES

We will also pay for:

Fire Protective Equipment

The cost to refill any fire protective equipment which has been discharged.

Removal

Any direct physical loss or damage to any "property" while it is being moved or while temporarily stored at another location, if you must move it from a "covered location" to preserve it from loss or damage by a Covered Cause of Loss.

Elevator Collision

Any loss or damage caused by:

1. damage to an "elevator" as a result of a collision with another object; or
2. damage to your "personal property" or "personal property" of others in your care, custody or control as a result of collision with an "elevator."

The most we will pay is the amount of loss, not to exceed the Limit of Insurance shown in the Declarations for "Personal Property." We will not pay for loss or damage caused by:

"War"

"Nuclear activity"; or

"Government activity."

"Burglary" Damage to a "Building"

Any loss or damage that results from "burglary" or any attempt at "burglary," but not any ensuing loss from another Covered Cause of Loss, to "buildings" you own; or "buildings" you do not own, but occupy and for which you are responsible.

The most we will pay is the amount of loss, not to exceed the Limit of Insurance shown in the Declarations for "Personal Property."

PROPERTY REPORTING

If the Declarations state that any "property" is insured on a reporting basis, the following terms shall apply:

Reports of Values

Within 60 days after the end of each Reporting Period, you will report to us the total value of "property" as of the last business day of the Reporting Period. Do not report the value of "personal property in transit."

Premium Adjustment

Unless otherwise provided, the premium for Property Reporting will be a deposit premium. At each anniversary date of this policy or when the policy is terminated, earned premium will be determined by applying the agreed rate to the average of the reported values.

If the earned premium is:

1. less than the deposit premium, we will return the premium difference to you; or
2. greater than the deposit premium, we will bill you for the additional premium.

When determination of earned premium at policy termination is subject to reports of value, you agree to:

1. submit any reports of value due us; and
2. pay any additional premium due. We will refund any premium difference if the earned premium is less than the deposit premium.

NOTE: If the values you report exceed the applicable limit of insurance we will:

1. determine earned premium based on all the values you reported; and
2. not pay more than the limit of insurance applicable to the "property" in the event of loss or damage.



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CAUSES OF LOSS - SPECIAL FORM COVERED CAUSES OF LOSS

When the Declarations indicate that Special Form applies Covered Causes of Loss means RISKS OF DIRECT PHYSICAL LOSS, unless the loss is excluded in the sections EXCLUSIONS or limited in the section LIMITATIONS that follow.

EXCLUSIONS - Part One

We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

"War"

"Nuclear Activity"

"Government Activity"

"Flood"

"Earth Movement" and Volcanic Eruption

1. Any "earth movement," but if loss or damage by fire or "explosion" results, we will pay for such resulting loss or damage.
2. Volcanic eruption, explosion or effusion, but if loss or damage by fire or "volcanic action" results, we will pay for such resulting loss or damage.

All "earth movements," volcanic eruptions, explosions or effusions that occur within any 72-hour period will constitute a single "occurrence."

Earthquake Limitation - Japan Zone Five

For the loss or damage by "resulting fire or explosion," that results from "earth movement" at "covered locations" in Tokyo-Tu, Chiba-Ken and Kanagawa-Ken, we will pay sixty percent (60%) of the amount of your "covered loss." The insurance provided by this policy may not be combined with any other insurance issued by us, or by any of our affiliated insurance companies, to obtain payment of more than sixty percent (60%) of the insured loss.

SASRIA Perils

This policy does not apply to any loss occurring within the Republic of South Africa which is insured by, or which was eligible to have been insured by (if not actually insured) the special policies issued by the South Africa Special Risk Insurance Association (SASRIA). Unless expressly endorsed, this policy shall not apply as excess insurance over any coverage afforded by SASRIA.

Asbestos

Asbestos including loss, damage or "clean-up" resulting from asbestos or asbestos-containing materials.

Power Failure

The failure of power or other utility service supplied to "covered locations," however caused, if the failure occurs away from the "covered locations," but if loss or damage by a Covered Cause of Loss results, we will pay for that resulting loss or damage.

EXCLUSIONS - Part Two: Ensuing "Specified Causes of Loss"

We will not pay for loss or damage caused by or resulting from any of the following, but if loss or damage by the "specified causes of loss" results from any of the causes in this EXCLUSIONS -Part Two, we will pay for that resulting loss or damage:

Wear and tear, marring or scratching, "animals," smog, rust, corrosion, fungus, decay, deterioration, erosion, hidden or latent defect, or any quality in "property" that causes it to damage or destroy itself;

Presence, release, discharge or dispersal, of contaminants or "pollutants," unless the presence, release, discharge or dispersal is itself caused by any of the "specified causes of loss";

Settling, cracking, shrinking, bulging or expansion;

Artificially generated electric current, including electric arcing, that disturbs electrical devices, appliances or wires;

Mechanical breakdown, including rupture or bursting caused by centrifugal force;

Errors in processing or in the manufacturing of your products; or

Change of temperature and humidity, except loss or damage to covered "personal property" resulting from:

1. physical damage to a "building" or equipment at a "covered location"; or
2. an interruption of power or utility service caused by physical damage to a "building" or equipment at a "covered location."

EXCLUSIONS - Part Three

We will not pay for loss or damage caused by or resulting from any of the following:

Delay

Delay in transit, loss of use or loss of market.

Industrial Smoke

Smoke, vapor or gas from agricultural smudging or industrial operations.

"Explosion" of Steam Boilers

"Explosion" of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if loss or damage by fire or combustion explosion results, we will

pay for that resulting loss or damage.

Dishonest or Criminal Acts

Dishonest or criminal act by you, any of your partners, "employees," directors, trustees, authorized representatives or anyone to whom you entrust the "property" for any purpose:

1. Acting alone or in collusion with others; or
2. Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your "employees"; but "theft" by "employees" is not covered.

Voluntary Parting

Voluntary parting with any "property" by you or anyone else to whom you have entrusted the "property," if induced to do so by any fraudulent scheme, trick, device or false pretense.

EXCLUSIONS - Part Four: Ensuing Covered Causes of Loss

We will not pay for loss or damage caused by or resulting from any of the following, but if loss or damage by a Covered Cause of Loss results, we will pay for that resulting loss or damage.

Weather conditions, but this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in EXCLUSIONS - Part One above to produce the loss or damage.

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

Faulty, inadequate or defective:

planning, zoning, development, surveying, siting; design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction; materials used in repair, construction, renovation or remodeling; or maintenance;

of part or all of any "property" on or off "covered locations"; including the cost of correcting the fault, inadequacy or defect.

EXCLUSIONS - Part Five

The following provisions apply only to the specified Coverage Forms and Extensions of Coverage specified below.

Business Income and Extra Expense Coverage Form and Extensions of Coverage for Rents and for Additional Extra Expense

We will not pay for:

Any loss caused by or resulting from:

1. Damage or destruction of "finished stock"; or
2. The time required to reproduce "finished stock";

but this exclusion does not apply to Extra Expense or Additional Extra Expense.

Any increase of loss caused by or resulting from:

1. Delay in rebuilding, repairing or replacing the "property" or resuming "operations," due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or
2. Suspension, lapse or cancellation of any license, lease or "contract," but if the suspension, lapse or cancellation is directly caused by the suspension of "operations," we will cover such loss that affects during the "recovery period" your Business Income, Extra Expense, Rents, and Additional Extra Expense insured under this policy; or
3. "electrical or magnetic injury."

Any Extra Expense or Additional Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or "contract" beyond the "recovery period."

Any other consequential loss.

Accounts Receivable

We will not pay for Accounts Receivable loss caused by the following:

"War"

"Nuclear Activity"

Bookkeeping, accounting or billing mistakes.

Damage to "electronic media and records" including "electrical or magnetic injury" to, or disturbance or erasure of, "electronic media or records," except where such damage is by lightning.

Dishonesty, meaning loss resulting from any dishonest act or omission done either by you or your "employees" (whether they are working or not), or by anyone authorized to act for you. We will cover loss that results if someone falsifies, alters or destroys your accounts receivable records in order to conceal any such action.

Inventory or audit, meaning a loss the existence of which can only be shown by an inventory count or an audit. However, if the existence of a loss can be shown by other means, you may use an inventory count or audit to support your claim for that loss.

"Money" and "Securities"

We will not pay for loss to "money" and "securities" caused by the following:

"War"

"Nuclear activity"

Dishonest Acts of "Employees."

Sales or Purchases meaning any loss of "money" or "securities" that arises from a sale, exchange or purchase transaction.

Accounting, Mathematical or Record-keeping Errors.

"Personal Property in Transit"

"Personal property in transit" is insured against RISKS OF DIRECT PHYSICAL LOSS, including general average and salvage charges, except we will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

"War"

"Nuclear Activity"

"Government Activity"

Delay in transit, loss of use or loss of market.

Wear and tear, marring or scratching, "animals," smog, rust, corrosion, fungus, decay, deterioration, erosion, hidden or latent defect, or any quality in "property" that causes it to damage or destroy itself.

LIMITATIONS

We will not pay for loss of or damage to:

1. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; however, we will pay for loss of or damage to such equipment caused by or resulting from an "explosion."
2. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an "explosion."
3. "Property" that is missing, but there is no physical evidence to show what happened to it, such as shortage disclosed on taking inventory.
4. "Property" that has been transferred to a person or to a place outside the described location on the basis of unauthorized instructions.

For loss or damage by "theft" or "hijack," the following types of "property" are not covered:

furs, fur garments and garments trimmed with fur; jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver; platinum and other precious alloys or metals.



ace usa

BUSINESS INCOME AND EXTRA EXPENSE COVERAGE FORM

This form, together with the Commercial Property Form and the Commercial Property and Business Income Conditions and Definitions Form, describes your business income and extra expense coverage.

COVERAGE

We will pay for the actual loss of Business Income and Extra Expense you sustain due to the necessary suspension of your "operations" during the "recovery period." The suspension must be caused by direct physical loss of or damage to:

1. "property" at "covered locations";
2. "personal property in transit," when a Limit of Insurance is shown in the Declarations for Business Income Coverage While In Transit;

caused by or resulting from a Covered Cause of Loss.

Business Income means the:

1. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
2. Continuing normal operating expenses, including "ordinary payroll," incurred.

Extra Expense means necessary expenses you incur during the "recovery period" that you would not have incurred if there had been no direct physical loss or damage to "property" caused by or resulting from a Covered Cause of Loss.

1. We will pay any Extra Expense to avoid or minimize the suspension of business and to continue "operations":
 - a. At the described locations; or
 - b. At replacement locations or at temporary locations, including:
 - i. Relocation expenses; and
 - ii. Costs to equip and operate the replacement or temporary locations.
2. We will pay any Extra Expense to minimize the suspension of business if you cannot continue "operations."
3. We will pay any Extra Expense to:
 - a. Repair or replace any "property"; or
 - b. Research, replace or restore the lost information on damaged "valuable papers and records";to the extent it reduces the amount of loss that otherwise would have been payable under this

Coverage Form.

Coverage for Business Income and Extra Expense includes coverage for Civil Authority, for Alterations and New Buildings and for Extended Business Income.

Civil Authority

We will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to a "covered location" due to direct physical loss of or damage to "property," other than at a "covered location," caused by or resulting from any Covered Cause of Loss. This coverage will apply for a period of up to 30 days from the date of that action.

Alterations and New Buildings

We will pay for the actual loss of Business Income you sustain due to direct physical loss or damage at the described locations caused by or resulting from any Covered Cause of Loss to:

1. New "buildings," whether complete or under construction;
2. Alterations or additions to existing "buildings"; and
3. Machinery, equipment, supplies or "building" materials located on or within 100 feet of a "covered location" and:
 - a. Used in the construction, alterations or additions; or
 - b. Incidental to the occupancy of new "buildings."

If such direct physical loss or damage delays the start of "operations," the "recovery period" will begin on the date "operations" would have begun if the direct physical loss or damage had not occurred.

Extended Business Income

We will pay for the actual loss of Business Income you incur during the period that:

1. Begins on the date "property" (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
2. Ends on the earlier of:
 - a. The date you could restore your business, with reasonable speed, to the condition that would have existed if no direct physical loss or damage occurred; or
 - b. 30-consecutive days after the date determined in a. above or such other number of days as may be indicated in the Declarations as the Extended Period of Indemnity.

Loss of Business Income must be caused by direct physical loss or damage at the "covered location" caused by or resulting from any Covered Cause of Loss.

COVERED CAUSES OF LOSS

The Declarations indicate which Causes of Loss Form describes the Covered Causes of Loss.

EXTENSIONS OF BUSINESS INCOME AND EXTRA EXPENSE COVERAGE

The limit of insurance shown in the Declarations for each Extension of Business Income and Extra Expense Coverage will apply at each "covered location" except for the Extension for Newly Acquired Locations. Extensions of Business Income and Extra Expense Coverage are limited to loss or damage that is caused by a Covered Cause of Loss. All other applicable terms and conditions of this policy apply, unless specifically contradicted by provisions that appear within each Extension.

When the word "included" appears in the Declarations in the place of any of the Limits of Insurance for Extensions of Business Income and Extra Expense Coverage, the amount we will pay for a loss will not exceed the limit of insurance for that Named Location, or if applicable, the Limit of Insurance for Unnamed Locations or "contingent business locations."

Newly Acquired Locations

You may extend the insurance provided by this Coverage Form to "property" at any location you acquire other than fairs or exhibitions. The most we will pay for loss under this Extension is the Limit of Insurance shown for this Extension in the Declarations. Insurance under this Extension for each newly acquired location will end when any of the following first occurs:

1. This policy expires;
2. 180 days expire after you acquire or begin to construct the "property"; or
3. You report values to us.

We will charge you additional premium for values reported from the date you acquired the "property."

Contingent Business Locations

We will pay your loss of business income and extra expense due to the actual suspension of your "operations" during the "recovery period" as a result of direct physical loss or damage by a Covered Cause of Loss to "property" at a "contingent business location." "Contingent business locations" will be described in the Declarations as:

1. Contributing Locations;
2. Recipient Locations;
3. Manufacturing Locations;
4. Leader Locations;
5. Source Locations; or
6. Destination Locations.

EDP and Special Objects

We will pay up to the amount shown in the Declarations for the loss of business income you incur due to the actual suspension of your "operations" during the "recovery period," when the suspension is caused by direct physical loss of or damage to the following "property":

1. "electronic data processing equipment" and "electronic media and records"; and
2. "money" and "securities," accounts receivable, "valuable papers" and "fine arts";

when such direct physical loss or damage is caused by

1. artificially generated electric current, including electric arcing, that disturbs electrical devices, appliances or wires; and
2. mechanical breakdown, including rupture or bursting caused by centrifugal force.

We will not pay for loss from accidental erasure of information on "electronic media and records" in the absence of physical damage to the "electronic media and records."

We will not pay more for EDP and Special Objects Coverage than the limit shown in the Declarations for EDP and Special Objects.

Public Utilities

We will pay up to the amount shown in the Declarations for Public Utilities for the loss of Business Income and Extra Expense you incur due to the actual suspension of your "operations" during the "recovery period" when the suspension is caused by direct physical loss of or damage to "property" not on your locations but used to supply you with services by the following utilities:

1. water supply companies;
2. communication supply companies, but not their overhead communication lines; and
3. power supply companies, but not their overhead transmission lines.

We will pay for loss you incur after a waiting period consisting of the first 8 hours following the direct physical loss or damage by a Covered Cause of Loss that disrupted the services provided by the utility companies described above. If a waiting period longer than 8 hours is shown in the Declarations, that longer waiting period will apply.

Auditors Fees

We will pay reasonable fees you are obligated to pay your accountants or auditors, subject to the Limit of Insurance stated in the Declarations for Auditors Fees for:

1. producing and certifying particulars or details of your business expenses, profits or losses; when
2. required by us to determine the Business Income loss you sustain; following
3. a Covered Cause of Loss of "property" at the locations stated in the Declarations for Business Income Insurance.

LIMITS OF LIABILITY

The most we will pay for loss in any one "occurrence" is the applicable Limit of Insurance shown in the Declarations.

Payments under the following Additional Coverages will not increase the applicable Limit of Insurance:

1. Alterations and New Buildings;
2. Civil Authority;
3. Extra Expense; or
4. Extended Business Income.

LOSS CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property and Business Income Conditions.

Loss Determination

The amount of Business Income loss will be determined based on:

1. The Net Income of the business before the direct physical loss or damage occurred;
2. the likely Net Income of the business if no loss or damage occurred;
3. The operating expenses, including insured "ordinary payroll" expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and
4. Other relevant sources of information, including:
 - a. Your financial records and accounting procedures;
 - b. Bills, invoices and other vouchers; and
 - c. Deeds, liens or "contracts."

The amount of Extra Expense will be determined based on:

1. All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "recovery period" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses the salvage value that remains of any "property" bought for temporary use during the "recovery period," once "operations" are resumed; and
2. All necessary expenses that reduce the Business Income loss that otherwise would have been incurred.

Resumption of Operations

We will reduce the amount of your:

1. Business Income loss payment, other than Extra Expense, to the extent you can resume your "operations," in whole or in part, by using damaged or undamaged "property" (including merchandise or "stock") at the described locations or elsewhere; or
2. to the extent you can resume your "operations," in whole or in part, by using any other available "contingent business locations."
3. Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

COVERAGE OPTIONS

If shown in the Declarations, the following Options apply:

Maximum Period of Indemnity

The most we will pay for loss of Business Income is the lesser of:

1. The amount of loss sustained during the 120 days immediately following the direct physical loss or damage; or
2. The applicable limit of insurance shown in the Declarations.

Monthly Limit of Indemnity

The most we will pay for loss of Business Income in each period of 30 consecutive days after the direct physical loss or damage is:

1. The applicable limit of insurance, multiplied by
2. The percentage shown in the Declarations for this Coverage Option.

Extended Period of Indemnity

If a period is shown in the Declarations for Extended Period of Indemnity, that period replaces the 30 days period stated in the coverage for Extended Business Income.

BUSINESS INCOME REPORTING

Reports of Values

At the time this Option becomes effective, you will submit a report showing business income values for your latest available 12 months' operating experience.

Within 120 days following each succeeding 12-month period, you will submit a report of business income values for that 12-month period.

Within 120 days after your coverage is terminated, you will submit a report of business income values for the period of coverage from the date of the last report to the date of termination.

Form and Content of Reports

1. All reports must be submitted on the Business Income Report/Worksheet or equivalent and will show the 100% values.
2. Values reported must be the actual values even if they differ from the Limit of Insurance stated in the Declarations.
3. Do not report values for business income insurance while in transit.

Premium Adjustment

Unless otherwise provided, the premium for Business Income Reporting will be a deposit premium. At each anniversary date of this policy or when the policy is terminated, earned premium will be determined by applying the agreed rate to the average of the reported values.

If the earned premium is:

1. less than the deposit premium, we will return the premium difference to you; or
2. greater than the deposit premium, we will bill you for the additional premium.

When determination of earned premium at policy termination is subject to reports of value, you agree to:

1. submit any reports of value due us; and
2. pay any additional premium due. We will refund any premium difference if the earned premium is less than the deposit premium.

NOTE: If the values you report exceed the applicable limit of insurance we will:

1. determine earned premium based on all the values you reported; and
2. not pay more than the limit of insurance applicable to the business income and extra expense in the event of loss or damage.

BY FAX

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

COPY

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)
BAILLIE LUMBER CO., L.P.DEFENDANTS
ACE AMERICAN INSURANCE COMPANY

(b) Attorneys (Firm Name, Address and Telephone Number, If you are representing yourself, provide same.)

Thomas H. Cadden, Esq./Ignacio J. Lazo, Esq./Nathaniel J. Tarvin, Esq.
CADDEN & FULLER LLP, 114 Pacific, Suite 450, Irvine, CA 92618
Tel.: 949 788 0827

Attorneys (If Known)

Magie D. Barrows (SBN 122129) / Kathleen M. DeLaney (SBN 196376)
FORAN GLENNON PALANDECH PONZI & RUDLOFF PC
2000 Powell Street, Suite 900
Emeryville, CA 94608

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input checked="" type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☒ No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No☒ MONEY DEMANDED IN COMPLAINT: \$ 190,000.00VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Removal based on diversity under 28 U.S.C. § 1332, §1441(b)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input checked="" type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	FORFEITURE/PENALTY	PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	REAL PROPERTY	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	IMMIGRATION	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee			<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: **LACV11-6038**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Plaintiff Baillie Lumber Company is limited partnership organized under the laws of Delaware and has its principal place of business in the State of New York

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Defendant ACE AMERICAN INSURANCE COMPANY is incorporated in the State of Pennsylvania and has its principal place of business in Pennsylvania

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	State of New York

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Theresa D. B. Date July 21, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))